

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE ENROLLED ACT No. 29

AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-4-30 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

Chapter 30. Center for Coal Technology Research

Sec. 1. As used in this chapter, "center" refers to the center for coal technology research established by this chapter.

Sec. 2. As used in this chapter, "director" refers to the director of the department of commerce.

Sec. 3. As used in this chapter, "fund" refers to the coal technology research fund established by section 8 of this chapter.

Sec. 4. As used in this chapter, "Indiana coal" means coal from a mine whose coal deposits are located in the ground wholly or partially in Indiana regardless of the location of the mine's tipple.

Sec. 5. The center for coal technology research is established to perform the following duties:

- (1) Develop technologies that can use Indiana coal in an environmentally and economically sound manner.
- (2) Investigate the reuse of clean coal technology byproducts, including fly ash.
- (3) Generate innovative research in the field of coal use.
- (4) Develop new, efficient, and economical sorbents for effective control of emissions.



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- (5) Investigate ways to increase coal combustion efficiency.
- (6) Develop materials that withstand higher combustion temperatures.
- (7) Carry out any other matter concerning coal technology research as determined by the center.

Sec. 6. In carrying out its duties under this chapter, the center shall be located at Purdue University at West Lafayette and shall cooperate with and may use the resources of:

- (1) Indiana University Geological Survey and other state educational institutions;
- (2) a state or federal department or agency;
- (3) a political subdivision; and
- (4) interest groups representing business, environment, industry, science, and technology.

Sec. 7. To carry out the center's duties described in section 5 of this chapter, the director or the director's designee, acting on behalf of the center, may:

- (1) organize the center in the manner necessary to implement this chapter;
- (2) execute contractual agreements, including contracts for:
 - (A) the operation of the center;
 - (B) the performance of any of the duties described in section 5 of this chapter; and
 - (C) any other services necessary to carry out this chapter;
- (3) receive money from any source for purposes of this chapter;
- (4) expend money for an activity appropriate to the purposes of this chapter;
- (5) execute agreements and cooperate with:
 - (A) Purdue University and other state educational institutions;
 - (B) a state or federal department or agency;
 - (C) a political subdivision; and
 - (D) interest groups representing business, the environment, industry, science, and technology; and
- (6) subject to the approval of the budget agency, employ personnel as necessary for the efficient administration of this chapter.

Sec. 8. (a) The coal technology research fund is established to provide money for the center for coal technology research and for the director to carry out the duties specified under this chapter. The budget agency shall administer the fund.



(b) The fund consists of the following:

- (1) Money appropriated by the general assembly.**
- (2) Gifts, grants, and bequests.**

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as the treasurer may invest other public funds.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 2. IC 4-23-5.5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 16. (a) The Indiana coal research grant fund is established for the purpose of providing grants for research and other projects designed to develop and expand markets for Indiana coal. The fund shall be administered by the board.

(b) Sources of money for the fund consist of the following:

- (1) Appropriations from the general assembly.**
- (2) Donations, gifts, and money received from any other source, including transfers from other funds or accounts.**

(c) Money remaining in the fund at the end of a state fiscal year does not revert to the state general fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) The board shall establish:

- (1) amounts for grants under this section; and**
- (2) criteria for awarding grants under this section.**

(f) A person, business, or manufacturer that wants a grant from the fund must file an application in the manner prescribed by the board.

(g) The department shall pursue available private and public sources of money for the fund.

SECTION 3. IC 8-1-2-6.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.6. (a) As used in this section:

"Clean coal technology" means a technology (including precombustion treatment of coal):

- (1) that is used at a new or existing electric generating facility and directly or indirectly reduces airborne emissions of sulfur or nitrogen based pollutants associated with combustion or use of coal; and**
- (2) that either:**
 - (A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of**

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January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.

"Indiana coal" means coal from a mine whose coal deposits are located in the ground wholly or partially in Indiana regardless of the location of the mine's tippie.

"Qualified pollution control property" means an air pollution control device on a coal burning electric generating facility or any equipment that constitutes clean coal technology that has been approved for use by the commission, that meets applicable state or federal requirements, and that is designed to accommodate the burning of coal from the geological formation known as the Illinois Basin.

"Utility" refers to any electric generating utility allowed by law to earn a return on its investment.

(b) Upon the request of a utility that began construction after October 1, 1985, **and before March 31, 2002**, of qualified pollution control property that is to be used and useful for the public convenience, the commission shall for ratemaking purposes add to the value of that utility's property the value of the qualified pollution control property under construction, but only if at the time of the application and thereafter:

- (1) the facility burns only Indiana coal as its primary fuel source once the air pollution control device is fully operational; or
- (2) the utility can prove to the commission that the utility is justified because of economic considerations or governmental requirements in utilizing some non-Indiana coal.

(c) The commission shall adopt rules under IC 4-22-2 to implement this section.

SECTION 4. IC 8-1-2-6.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.8. (a) This section applies to a utility that begins construction of qualified pollution control property after March 31, 2002.**

(b) As used in this section, "clean coal technology" means a technology (including precombustion treatment of coal):

- (1) that is used in a new or existing energy generating facility and directly or indirectly reduces airborne emissions of sulfur, mercury, or nitrogen oxides or other regulated air emissions associated with the combustion or use of coal; and**
- (2) that either:**



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(A) was not in general commercial use at the same or greater scale in new or existing facilities in the United States at the time of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549); or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after the date of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549).

(c) As used in this section, "qualified pollution control property" means an air pollution control device on a coal burning energy generating facility or any equipment that constitutes clean coal technology that has been approved for use by the commission and that meets applicable state or federal requirements.

(d) As used in this section, "utility" refers to any energy generating utility allowed by law to earn a return on its investment.

(e) Upon the request of a utility that begins construction after March 31, 2002, of qualified pollution control property that is to be used and useful for the public convenience, the commission shall for ratemaking purposes add to the value of that utility's property the value of the qualified pollution control property under construction.

(f) The commission shall adopt rules under IC 4-22-2 to implement this section.

SECTION 5. IC 8-1-2-48 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 48. (a) The commission shall inquire into the management of the business of all public utilities, and shall keep itself informed as to the manner and method in which the same is conducted and shall have the right to obtain from any public utility all necessary information to enable the commission to perform its duties. If, in its inquiry into the management of any public utility, the commission finds that the amount paid for the services of its officers, employees, or any of them, is excessive, or that the number of officers or persons employed by such utility is not justified by the actual needs of the utility, or that any other item of expense is being incurred by the utility which is either unnecessary or excessive, the commission shall designate such item or items, and such item or items so designated, or such parts thereof as the commission may deem unnecessary or excessive, shall not be taken into consideration in determining and fixing the rates which such utility is permitted to charge for the service which it renders.

(b) For purposes of IC 8-1-2, IC 8-1-8.5, IC 8-1-8.7, **IC 8-1-8.8**, and



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IC 8-1-27, wages paid to an independent contractor of a utility for construction or maintenance performed for the utility shall not be found to be excessive merely because the wages are those normally paid for work of the same type and quality in the labor market in which the work for the utility is being performed.

(c) In carrying out its duties and powers under subsection (a) with regard to any utility which sells or generates electricity, the commission may also inquire into or audit a utility's powerplant efficiency and system reliability.

SECTION 6. IC 8-1-8.8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 8.8. Utility Generation and Clean Coal Technology

Sec. 1. (a) The general assembly makes the following findings:

- (1) Growth of Indiana's population and economic base has created a need for new energy generating facilities in Indiana.**
- (2) The development of a robust and diverse portfolio of energy generating capacity, including the use of renewable energy resources, is needed if Indiana is to continue to be successful in attracting new businesses and jobs.**
- (3) Indiana has considerable natural resources that are currently underutilized and could support development of new energy generating facilities at an affordable price.**
- (4) Certain regions of the state, such as southern Indiana, could benefit greatly from new employment opportunities created by development of new energy generating facilities utilizing the plentiful supply of coal from the geological formation known as the Illinois basin.**
- (5) Technology can be deployed that allows high sulfur coal from the geological formation known as the Illinois Basin to be burned efficiently while meeting strict state and federal air quality limitations. Specifically, the state should encourage the use of advanced clean coal technology, such as coal gasification.**
- (6) It is in the public interest for the state to encourage the construction of new energy generating facilities that increase the in-state capacity to provide for current and anticipated energy demand at a competitive price.**

(b) The purpose of this chapter is to enhance Indiana's energy security and reliability by ensuring all of the following:

- (1) Indiana's energy generating capacity continues to be adequate to provide for Indiana's current and future energy**



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needs, including the support of the state's economic development efforts.

(2) The vast and underutilized coal resources of the Illinois Basin are used as a fuel source for new energy generating facilities.

(3) The electric transmission system within Indiana is upgraded to distribute additional amounts of electricity more efficiently.

(4) Jobs are created as new energy generating facilities are built in regions throughout Indiana.

Sec. 2. As used in this chapter, "clean coal and energy projects" means any of the following:

(1) Any of the following projects:

(A) Projects at new energy generating facilities that employ the use of clean coal technology and that are fueled primarily by coal or gases derived from coal from the geological formation known as the Illinois Basin.

(B) Projects to provide advanced technologies that reduce regulated air emissions from existing energy generating plants that are fueled primarily by coal or gases from coal from the geologic formation known as the Illinois Basin, such as flue gas desulfurization and selective catalytic reduction equipment.

(C) Projects to provide electric transmission facilities to serve a new energy generating facility.

(2) Projects to develop alternative energy sources, including renewable energy projects.

(3) The purchase of fuels produced by a coal gasification facility.

Sec. 3. As used in this chapter, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used in a new or existing energy generating facility and directly or indirectly reduces airborne emissions of sulfur, mercury, or nitrogen oxides or other regulated air emissions associated with the combustion or use of coal; and

(2) that either:

(A) was not in general commercial use at the same or greater scale in new or existing facilities in the United States at the time of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549); or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal

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Technology program and is finally approved for such funding on or after the date of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549).

Sec. 4. As used in this chapter, "coal gasification facility" means a facility in Indiana that uses a manufacturing process that converts coal into a clean gas that can be used as a fuel to generate energy.

Sec. 5. As used in this chapter, "costs associated with qualified utility system property" means capital, operation, maintenance, depreciation, tax costs, and financing costs of or for qualified utility system property.

Sec. 6. As used in this chapter, "eligible business" means an energy utility (as defined in IC 8-1-2.5-2) that:

- (1) proposes to construct or repower a new energy generating facility;
- (2) proposes to construct or repower a project described in section 2(1) or 2(2) of this chapter;
- (3) undertakes a project to develop alternative energy sources, including renewable energy projects; or
- (4) purchases fuels produced by a coal gasification facility.

Sec. 7. As used in this chapter, "group" refers to the forecasting group established by IC 8-1-8.5-3.5.

Sec. 8. (a) As used in this chapter, "new energy generating facility" refers to a facility that satisfies all of the following:

- (1) The facility is fueled primarily by coal or gases from coal from the geologic formation known as the Illinois Basin.
- (2) The facility is a:
 - (A) newly constructed or newly repowered energy generation plant; or
 - (B) newly constructed generation capacity expansion at an existing facility;
 dedicated primarily to serving Indiana retail customers.

(3) The repowering, construction, or expansion of the facility was begun by an Indiana utility after July 1, 2002.

(4) Except for a facility that is a clean coal and energy project under section 2(2) of this chapter, the facility has an aggregate rated electric generating capacity of at least one hundred (100) megawatts for all units at one (1) site or a generating capacity of at least four hundred thousand (400,000) pounds per hour of steam.

(b) The term includes the transmission lines and associated equipment employed specifically to serve a new energy generating

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facility.

Sec. 9. As used in this chapter, "qualified utility system property" means any new energy generating facility used, or to be used, in whole or in part, on a utility system to provide retail energy service (as defined in IC 8-1-2.5-3) regardless of whether that service is provided under IC 8-1-2.5 or another provision of this article.

Sec. 10. (a) As used in this chapter, "renewable energy resources" means alternative sources of renewable energy, including the following:

- (1) Energy from wind.
- (2) Solar energy.
- (3) Photovoltaic cells and panels.
- (4) Dedicated crops grown for energy production.
- (5) Organic waste biomass.
- (6) Hydropower from existing dams.
- (7) Fuel cells.
- (8) Energy from waste to energy facilities producing steam not used for the production of electricity.

(b) Except for energy described in subsection (a)(8), the term does not include energy from the incinerations, burning, or heating of any of the following:

- (1) Waste wood.
- (2) Tires.
- (3) General household, institutional, commercial, industrial lunchroom, office, or landscape waste.
- (4) Construction or demolition debris.

Sec. 11. (a) The commission shall encourage clean coal and energy projects by creating the following financial incentives for clean coal and energy projects, if the projects are found to be reasonable and necessary:

- (1) The timely recovery of costs incurred during construction and operation of projects described in section 2(1) or 2(2) of this chapter.
- (2) The authorization of up to three (3) percentage points on the return on shareholder equity that would otherwise be allowed to be earned on projects described in subdivision (1).
- (3) Financial incentives for the purchase of fuels produced by a coal gasification facility, including cost recovery and the incentive available under subdivision (2).
- (4) Financial incentives for projects to develop alternative energy sources, including renewable energy projects.



(5) Other financial incentives the commission considers appropriate.

(b) An eligible business must file an application to the commission for approval of a clean coal and energy project under this section. This chapter does not relieve an eligible business of the duty to obtain any certificate required under IC 8-1-8.5 or IC 8-1-8.7. An eligible business seeking a certificate under IC 8-1-8.5 or IC 8-1-8.7 and this chapter for one (1) project may file a single application for all necessary certificates. If a single application is filed, the commission shall consider all necessary certificates at the same time.

(c) The commission shall promptly review an application filed under this section for completeness. The commission may request additional information the commission considers necessary to aid in its review.

(d) The commission shall, after notice and hearing, issue a determination of a project's eligibility for the financial incentives described in subsection (a) not later than one hundred twenty (120) days after the date of the application, unless the commission finds that the applicant has not cooperated fully in the proceeding.

Sec. 12. (a) The commission shall provide financial incentives to eligible businesses for new energy generating facilities in the form of timely recovery of the costs incurred in connection with the construction, repowering, expansion, operation, or maintenance of the facilities.

(b) An eligible business seeking authority to timely recover the costs described in subsection (a) must apply to the commission for approval of a rate adjustment mechanism in the manner determined by the commission.

(c) An application must include the following:

- (1) A schedule for the completion of construction, repowering, or expansion of the new energy generating facility for which rate relief is sought.
- (2) Copies of the most recent integrated resource plan filed with the commission.
- (3) The amount of capital investment by the eligible business in the new energy generating facility.
- (4) Other information the commission considers necessary.

(d) The commission shall allow an eligible business to recover the costs associated with qualified utility system property if the eligible business provides substantial documentation that the expected costs associated with qualified utility system property and

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the schedule for incurring those costs are reasonable and necessary.

(e) The commission shall allow an eligible business to recover the costs associated with the purchase of fuels produced by a coal gasification facility if the eligible business provides substantial documentation that the costs associated with the purchase are reasonable and necessary.

(f) A retail rate adjustment mechanism proposed by an eligible business under this section may be based on actual or forecasted data. If forecast data is used, the retail rate adjustment mechanism must contain a reconciliation mechanism to correct for any variance between the forecasted costs and the actual costs.

Sec. 13. An eligible business shall file a monthly report with the department of commerce stating the following information:

- (1) The amount of Illinois Basin coal, if any, purchased during the previous month for use in a new energy generating facility.
- (2) The amount of any fuel produced by a coal gasification facility and purchased by the eligible business during the previous month.
- (3) Any other information the department of commerce may reasonably require.

Sec. 14. The group shall conduct an annual study on the use, availability, and economics of using renewable energy resources in Indiana. Each year, the group shall submit a report on the study to the commission for inclusion in the commission's annual report to the regulatory flexibility committee described in IC 8-1-2.5-9 and IC 8-1-2.6-4. The report must include suggestions from the group to encourage the development and use of renewable energy resources and technologies appropriate for use in Indiana.

Sec. 15. The commission may review any project approved under this chapter to determine that the project continues to comply with the commission's order initially approving incentives under this chapter. The commission may revoke any incentive approved in the order if the commission finds that the project no longer complies with the provisions of the order concerning the incentive.

SECTION 7. An emergency is declared for this act.



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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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